

PATENT COOPERATION TREATY

From the
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

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10/505568

PCT

To:

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26. Nov. 2003

WRITTEN OPINION
(PCT Rule 66)

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Date of mailing
(day/month/year)

26.11.2003

Applicant's or agent's file reference
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REPLY DUE

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26.02.2002

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26.02.2002

International Patent Classification (IPC) or both national classification and IPC
H04Q7/38

Applicant

NOKIA CORPORATION et al.

1. This written opinion is the **first** drawn up by this International Preliminary Examining Authority.
2. This opinion contains indications relating to the following items:
 - I ☒ Basis of the opinion
 - II ☐ Priority
 - III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
 - IV ☐ Lack of unity of invention
 - V ☒ Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
 - VI ☐ Certain documents cited
 - VII ☐ Certain defects in the international application
 - VIII ☐ Certain observations on the international application

PC: 260204

160204

160104

161203 → JD4

3. The applicant is hereby **invited to reply** to this opinion.

When? See the time limit indicated above. The applicant may, before the expiration of that time limit, request this Authority to grant an extension, see Rule 66.2(d).

How? By submitting a written reply, accompanied, where appropriate, by amendments, according to Rule 66.3. For the form and the language of the amendments, see Rules 66.8 and 66.9.

Also: For an additional opportunity to submit amendments, see Rule 66.4.
For the examiner's obligation to consider amendments and/or arguments, see Rule 66.4 bis.
For an informal communication with the examiner, see Rule 66.6.

If no reply is filed, the international preliminary examination report will be established on the basis of this opinion.

4. The final date by which the international preliminary examination report must be established according to Rule 69.2 is: 26.06.2004

Name and mailing address of the international preliminary examining authority:



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I. Basis of the opinion

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this opinion as "originally filed"*):

Description, Pages

1-16 as originally filed

Claims, Numbers

1-15 as originally filed

Drawings, Sheets

1/2-2/2 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
- ☐ the claims, Nos.:
- ☐ the drawings, sheets:

5. ☐ This opinion has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

6. Additional observations, if necessary:

V. Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**1. Statement**

Novelty (N)	Claims	
Inventive step (IS)	Claims	1-15
Industrial applicability (IA)	Claims	

2. Citations and explanations**see separate sheet**

Reference is made to the following documents:

D1: WO 02/05581 A1

D2: WO 01/35585 A1

A. Citations and explanations made in respect of paragraph V:

1. Document **D1** (see in particular abstract; page 1, lines 11 to 16; page 2, lines 4 to 12; page 3, line 24 to page 4, line 2; page 6, lines 5 to 35; Figure 1) discloses a method for adapting the configuration of at least one application (of a **remote application server**) to an accessible data connection (see in particular page 3, lines 24 to 29; see "Bluetooth", "GSM", "GPRS" and "UMTS" in Figure 1), the method comprising the steps of:

obtaining properties of at least one data connection accessible from a mobile device (see in particular page 3, lines 27 to 29; page 6, lines 7 to 16); and

adapting the configuration of said application (on said **remote application server**) in accordance with said properties (see in particular page 3, line 31 to page 4, line 6; page 6, lines 16 to 21).

The subject-matter of **claim 1** differs from that disclosed in document **D1** merely in that the application is located in the mobile terminal (in document **D1**: in the remote application server).

However, this distinguishing feature represents a simple design alternative, the principle of which is described in a similar application disclosed in document **D2** (see in particular abstract; page 4, line 25 to page 5, line 23; page 13, line 5 to page 15, line 20; Figure 1). In particular, document **D2** describes a **mobile terminal device** obtaining informations on at least one accessible data connection (see page 5, lines 7 to 16; page 13, lines 7 to 23) and adapting its configuration in accordance with said informations (see page 5, lines 20 to 23; page 15, lines 6 to 20).

The skilled person being aware of the method described in document **D1** **would** therefore arrive, by applying a simple and well known design alternative thereto (see eg. document **D2**), **without** the exercise of inventive skill, at the method corresponding to the subject-matter of claim 1.

The subject-matter of independent claim 1 therefore does **not** involve an inventive step, Article 33 (3) PCT.

2. **Dependent claims 2 to 9** do **not** contain any additional features which, in combination with the features of any claim to which they refer, involve an inventive step for the reason that the subject-matter of said claims is **in principle** directly derivable from the disclosure of document **D1** (see in particular abstract; page 1, lines 11 to 16; page 2, lines 4 to 12; page 3, line 24 to page 4, line 2; page 6, lines 5 to 35; Figures 1, 3 and 4) or document **D2** (see in particular abstract; page 4, line 25 to page 5, line 23; page 13, line 5 to page 15, line 20; Figure 1).

Dependent claims 2 to 9 therefore **do not** meet the requirements of Article 33 (3) PCT.

3. The same considerations as made in above paragraphs 1 and 2 relating to respective claims 1 and 2 to 9 are also valid for **independent claims 10 to 12** for the reason that said claims 10 to 12 merely relate to a software tool, a computer program and a computer program product, respectively, including means for carrying out the method of anyone of claims 1 to 9.

The subject-matter of independent claims 10 to 12 therefore **does not involve an inventive step**, Article 33 (3) PCT.

4. Furthermore, the same considerations as made in above paragraph 1 relating to the method of claim 1 are also valid for **independent claim 13** for the reason that said claim includes substantially the same feature combination as claim 1 in terms of a claim relating to a device (and including, in consequence, corresponding means).

The subject-matter of independent claim 13 therefore **does not involve an inventive step**, Article 33 (3) PCT.

5. **Dependent claims 14 and 15** do **not** contain any additional features which, in combination with the features of any claim to which they refer, involve an inventive step for the reason that the subject-matter of said claims is **in principle** also directly derivable from the disclosure of document **D1** (see in particular page 1, lines 11 to 16; page 2, lines 4 to 12; page 3, line 24 to page 4, line 2; page 6, lines 5 to 35; Figure 1).

Dependent claims 14 and 15 therefore **do not** meet the requirements of Article 33 (3) PCT.

B. Further remarks made in respect of the present application:

1. To meet the requirements of Rule 6.3 (b) PCT, any independent claim should be correctly cast in the **two-part form**, with those features which in combination are part of the nearest prior art (eg. document **D1**) being placed in the preamble.
2. **Reference signs** in parentheses should be inserted in all the claims to increase their intelligibility, Rule 6.2 (b) PCT. This applies both to the preamble and to the characterizing portion.
3. To meet the requirements of Rule 5.1 (a) (ii) PCT, the documents **D1** and **D2**, which represent a relevant state of the art with regard to the present invention, should be identified in the opening part of the description and the relevant background art disclosed therein should be briefly discussed.
4. The opening part of the description should be **brought into conformity** with the wording of any new or amended independent claim, Rule 5.1 (a) (iii) PCT.
5. The attention of the Applicant is drawn to the fact that the application may **not** be amended in such a way that it contains subject-matter which extends **beyond** the content of the application as filed, Article 34 (2) (b) PCT.
In his letter of reply, the Applicant should indicate the parts of the originally filed application serving as a basis for subject-matter newly introduced into the claims.
6. The Applicant is requested to file amendments by way of **replacement pages** in accordance with Rule 66.8 PCT.